IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 2743 OF 2006

UDAY BHIMRAO SHEWALE .. PETITIONER

Versus

THE COMMISSIONER OF POLICE & ORS. RESPONDENTS

Mr. S. R. Chitnis, Sr. Counsel i/b Mrs. V.R. Raje for petitioner

Mr. D. S. Mhaispurkar, APP

CORAM:-SMT. RANJANA DESAI &
ANOOP V. MOHTA, JJ.

DATED:-31/1/2007

P.C.

. It is the grievance of the petitioner that the respondents are interfering with lawful activities of Surabhi Krida Sanskriti Mandal, Kolhapur. The petitioner is the Honorary Secretary of the said Mandal.

2. We have heard Mr. Chitnis, learned counsel for the petitioner. Mr. Chitnis made serious grievance that the respondents are interfering with lawful activities of the said Mandal. He submitted that in Criminal Case No. 90 of 2005 several

persons were charged for offence under the Bombay Prevention of Gambling Act, 1887. The allegation was that they were found gambling in the petitioner's club. Mr. Chitnis pointed out that the said case ended in an acquittal.

3. He pointed out that three petitions were filed by the petitioner in this court. They were disposed of by this court by recording the statement of the APP that the police will not interfere with the lawful activities of the petitioner's club. Mr. Chitnis particularly drew our attention to the order of this court dated 14/3/05 passed in C.W.P. No. 136 of 2005, where Bench presided over by Justice R.M.S. Khandeparkar has quoted extract from affidavit filed by B. S. Jadhav, PSI attached to Laxmipuri Police Station, Kolhapur, stating that no oral directions for closure of the club were given and the police are taking action according to law. The learned counsel contended that despite this, the police are still preventing the petitioner's club from carrying out its lawful activities. He submitted that, if the police want to take any action, they are required to follow the provisions of Bombay Prevention of Gambling Act, 1887, which they are

not doing.

4. We have also heard Mr. Mhaispurkar, learned APP. He drew our attention to the affidavit of Swati Mahadeo Gaikwad, Police Sub-Inspector, attached to Laxmipuri Police Station, Kolhapur. Mr. Mhaispurkar on the basis of this affidavit contended that the police are not preventing any lawful activities of the petitioner's club. He submitted that, however, if any gambling activities are carried on then the police have every authority to visit the petitioner's club and take action according to law.

5. There can be no doubt that if any gambling activities are carried on in the petitioner's club, the police are entitled to take action in accordance with law. However, the police cannot prevent any lawful activities being carried out. In this connection we may quote paragraph 7 of the affidavit filed by PSI Swati Gaikwad:

> . "I say that since we have not given any oral directions for closure of the club or threats to the members and, if the gambling activities are continued

> then police have every authority to visit the petitioner’s club and register the office. Hence the petitioner is not entitled for any relief."

6. In view of this assertion made in this affidavit it is not necessary to entertain this petition. We direct that the police shall not prevent any lawful activities of the petitioner’s club. However, if any illegal activities are going on the police will be at liberty to take such action as provided in law. The police must act strictly in accordance with law bearing in mind particularly Section 6 of the Bombay Prevention of Gambling Act, 1887.

6. Petition is disposed of in the aforestated terms.

JUDGE.

JUDGE.